IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Bail Appl..No. 5003 of 2007()

CRIME NO.145/07 OF PULIKEEZH POLICE STATION, PATHANAMTHITTA.

PETITIONER : ACCUSED:

RAJAN @ RAJALINGAM, AGED 23 YEARS,
S/O.THIRUMAL PUTHALAN, MANAKANDI P.O.,
AGASTEESWARAM TALUK, KANYAKUMARI DISTRICT.

BY ADV. SRI.RAJESH VIJAYAN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5003 OF 2007

Dated this the 17th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Sec.366 of the IPC. The crux of the allegations is that the petitioner had enticed the daughter of the de facto complainant – a girl aged just above 16 years. The petitioner allegedly took her to places and did allegedly have sexual intercourse with her. A crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He was in love with the girl in question. He is willing to marry her. The girl is aged about only 16 years. The parents of the girl have also settled the dispute with him. In these circumstances, the petitioner may be saved of the undeserved trauma of arrest and detention

in custody. He shall abide by all the reasonable conditions, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor, on instructions, submits that though the parents of the girl are willing for a settlement, the petitioner has not so far married or agreed to marry the girl in question. In these circumstances, the State is obliged to oppose the application very vehemently, submits learned Public Prosecutor. Though adequate time was given to the petitioner to satisfy the court that the matter has been settled and there is an agreement/proposal for the petitioner to marry the girl, no material has so far been produced.

4. When the matter came up for hearing, the learned counsel for the petitioner submits that the petitioner is not, at the moment, able to satisfy the court that the matter has been settled. He prays that the petitioner may be granted permission to surrender before the learned Magistrate and seek regular bail.

5. I am not persuaded on the inputs presently available to hold that it is necessary or proper to issue directions under Sec.438 of the Cr.P.C. The petitioner can, of course, appear before the Investigating Officer or the learned Magistrate and then seek regular bail. The petitioner does not require the

permission of the court to do so same. I find no reason to issue any directions under Sec.438 of the Cr.P.C.

6. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously. It need not be repeated that the petitioner can, if that be the truth, attempt to satisfy the learned Magistrate that the matter has been settled between the parties.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge